

ESTTA Tracking number: **ESTTA181313**

Filing date: **12/17/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Rearden LLC
Granted to Date of previous extension	12/19/2007
Address	355 Bryant Street Suite 110 San Francisco, CA 94107 UNITED STATES
Attorney information	Diane M. Lambillotte Bingham McCutchen LLP Three Embarcadero Center San Francisco, CA 94111 UNITED STATES rachel.chanin@bingham.com, diane.lambillotte@bingham.com

### Applicant Information

Application No	77116343	Publication date	08/21/2007
Opposition Filing Date	12/17/2007	Opposition Period Ends	12/19/2007
Applicant	Rearden Metal LLC 134 Marvin Avenue Los Altos, CA 94022 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Business consulting, advisory, strategy and planning services; business marketing services; marketing consulting
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	77194957	Application Date	05/31/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	REARDEN		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use:</p> <p>Software; video game software; mobile device client software; image and video processing software; image and video compression and decompression software; user interface software; email software; online transaction and e-commerce software; operating systems; 2D and 3D rendering and animation software; signal processing software; telephone, audio and video teleconference software; facilities management software for controlling building environmental, access and security systems and database management; computer software development tools; imaging, animation, video and audio production tools; user interfaces; visual, auditory, tactile and vibratory interfaces; encryption and decryption software; avatar software; online services; software and hardware for online, email, transactional, e-commerce and media services; online video games; interactive online video; interactive online audio; interactive online tactile and vibratory interfaces; computer hardware; display devices; computer peripherals; video game accessories; graphics hardware; video compression and decompression hardware; digital video recording systems; video games systems; audio, video and photographic media playback devices; audio systems; video systems; consumer electronics products and industrial hardware; cable TV, Internet protocol TV, and satellite TV set-top boxes and network interface units; Internet access devices; cable systems; digital subscriber lines; Internet telephones; modems; wireless devices; wireless peripherals; mobile and wireless telephones; telephone systems; PBX systems; networking systems; wireless communication systems; wireless networks; wireless repeaters; Ethernet repeaters; media centers; network interfaces; user interfaces for networks; internet portals; internet search systems; database systems; Internet-based database systems; web site development tools; web site management systems; web site hosting systems; web browsers; web data viewing systems; web data processing systems; web data video and audio presentation systems; mobile devices; software for mobile devices; navigation systems; wireless and wired network protocols; power management systems; wireless modulation and demodulation systems; user interfaces for mobile devices; visual, auditory, tactile and vibratory interfaces for mobile devices; online services for mobile devices; automobile audio and video media players; automobile data navigation systems; navigation databases; satellite audio and video systems; transactional and e-commerce systems for automobiles; transmission systems for geographic information; automobiles wireless communication systems; automobile power systems; entertainment systems; wireless networks for airplanes; satellite data receivers for airplanes; media distribution systems; disk drives; solid-state memory devices; RAID arrays; photographic equipment; still and video cameras; motion capture software and hardware systems; lighting systems; hardware and software for capturing light from a scene and reconstructing 2-dimensional information and images; hardware and software for capturing light from a scene and reconstructing 3-dimensional information and images; hardware and software for capturing light from a scene and reconstructing motion information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing 2-dimensional information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing 3-dimensional information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing motion information and images; 3D zoetropes</p> <p>Class 025. First use:</p> <p>Clothing, namely, T-shirts, jackets, sweatshirts, caps and hats</p> <p>Class 028. First use:</p> <p>Games and toys; toy vehicles controlled by a wireless radio remote control; toy robots; electronic toys, electronically operated toy vehicles and electronic games; battery operated toys, battery operated action toys; action figures and plush toys; networked online toys and toys controlled by a wireless network, toy</p>

	<p>robots, vehicles, action figures and plush toys; avatars</p> <p>Class 036. First use:</p> <p>Venture capital services; providing incubation services to companies, namely providing the following facilities, resources and services: financing, office space, facilities management; office equipment, online services, e-commerce services, credit guarantees, payroll, health benefits, insurance, legal services, accounting services, venture capital investment advisory services; investment management; financial due diligence, engineering equipment, engineering resources</p> <p>Class 038. First use:</p> <p>Television broadcasting; streaming of audio and video material over wired and wireless data networks and wireless telephone networks; and providing networking services for establishing multiple-user access to wide-area networks and local-area networks; provision of internet portals; Internet-based navigation services; video game hosting services; avatar services; web site design and customization services; provision of social network services; web site and media hosting services</p> <p>Class 041. First use:</p> <p>Multimedia entertainment software production services; script writing services; video production services; music production services; providing entertainment services in the nature of ongoing television and radio programs; wireless ISM-band networks, wireless wide-area networks, cellular networks, and global communication networks; production and distribution of motion pictures; distribution of audio and television programming to cable television systems, satellite systems, local wireless networks, cellular data networks, telephone networks, and wide area wireless networks; distribution of audio and television programs for others; providing educational services via global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; providing information via global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; production services for digital video discs for others; production services for audio, motion pictures, three-dimensional graphics, animation and motion capture, namely, capturing motion with digital images, animation; distributing audio, motion pictures, three-dimensional graphics, animation and motion capture, namely, capturing motion with digital images, animation over global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; distribution of entertainment media, motion pictures, television programs, and live concerts; providing services in the fields of education, entertainment, digital video and audio production and broadcasting, motion picture production and distribution, three-dimensional graphics production, animation production, and motion capture; and rental of entertainment media, rental of motion pictures, television programs and live concerts; hosting and distribution of video games and computer applications through global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; providing storage services through global computer networks, local wireless networks, data networks, telephone networks and wide area wireless networks; providing audio and video teleconferencing services through global computer networks, local wireless networks, data networks, telephone networks and wide area wireless networks; providing e-commerce and transactional services for consumers and businesses over global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; e-commerce and transaction services; wireless toll collection; automotive entertainment services; travel services; automotive wireless communication services; e-commerce and transaction services, including entertainment services, travel services; airplane wireless communication services; social networking services; online services; credit guarantee services, human resource services, payroll services, health benefits services, insurance</p>
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	<p>services, legal services, accounting services, venture capital investment advisory services; investment management; financial due diligence; 3D printing and rapid prototyping services; software development services; hardware development services; facilities management services; art production services; casting services; Internet hosting services; website hosting services; email hosting services; chat hosting services; video and audio hosting services; video game hosting services; social network hosting services; e-commerce and transaction hosting services; search services; data collection services; database services; data presentation services; web site design services; digital video recording services</p> <p>Class 042. First use:</p> <p>Consulting services in the fields of computer hardware, software, wireless technology, wireless devices, wireless networks, mobile devices, telephony, teleconferencing, video games, motion picture production, motion capture, special effects, e-commerce technology, online transaction systems, user interface design, compression technology, encryption technology, user interface design, optical system design, photography, wireless power transmission, power management, network technology, server center deployment and global computer networks</p>
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U.S. Registration No.	3011731	Application Date	04/26/2002
Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	REARDEN STUDIOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 2005/02/23 First Use In Commerce: 2005/02/23</p> <p>CONSULTING SERVICES IN THE FIELDS OF MOTION PICTURE PRODUCTION AND DISTRIBUTION, DIGITAL VIDEO AND AUDIO PRODUCTION, THREE-DIMENSIONAL GRAPHICS PRODUCTION, AND MOTION CAPTURE, NAMELY, CAPTURING MOTION WITH DIGITAL IMAGES, AND ANIMATION PRODUCTION</p>		

U.S. Registration No.	3011730	Application Date	04/20/2002
Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	REARDEN STUDIOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 2005/02/23 First Use In Commerce: 2005/02/23</p> <p>Production and distribution of digital video and audio, motion pictures, three-dimensional graphics, animation and motion capture, namely, capturing motion with digital images and animation, via the global computer networks, namely, the Internet, data networks, telephone system subscriber- and leased line-based networks, namely ISDN, DSL and T1 lines, and fiber optic networks; Production and distribution of motion pictures; Script writing services; Consulting services in the fields of education, entertainment, and screenplay writing</p>		

U.S. Registration No.	3011729	Application Date	04/20/2002
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Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	REARDEN STUDIOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/02/23 First Use In Commerce: 2005/02/23 Consulting services in the fields of digital video and audio, motion picture production and distribution, three-dimensional graphics, and motion capture, namely, capturing motion with digital images, and animation		

U.S. Application No.	77194967	Application Date	05/31/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	REARDEN COMPANIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use:</p> <p>Software; video game software; mobile device client software; image and video processing software; image and video compression and decompression software; user interface software; email software; online transaction and e-commerce software; operating systems; 2D and 3D rendering and animation software; signal processing software; telephone, audio and video teleconference software; facilities management software for controlling building environmental, access and security systems and database management; computer software development tools; imaging, animation, video and audio production tools; user interfaces; visual, auditory, tactile and vibratory interfaces; encryption and decryption software; avatar software; online services; software and hardware for online, email, transactional, e-commerce and media services; online video games; interactive online video; interactive online audio; interactive online tactile and vibratory interfaces; computer hardware; display devices; computer peripherals; video game accessories; graphics hardware; video compression and decompression hardware; digital video recording systems; video games systems; audio, video and photographic media playback devices; audio systems; video systems; consumer electronics products and industrial hardware; cable TV, Internet protocol TV, and satellite TV set-top boxes and network interface units; Internet access devices; cable systems; digital subscriber lines; Internet telephones; modems; wireless devices; wireless peripherals; mobile and wireless telephones; telephone systems; PBX systems; networking systems; wireless communication systems; wireless networks; wireless repeaters; Ethernet repeaters; media centers; network interfaces; user interfaces for networks; internet portals; internet search systems; database systems; Internet-based database systems; web site development tools; web site management systems; web site hosting systems; web browsers; web data viewing systems; web data processing systems; web data video and audio presentation systems; mobile devices; software for mobile devices; navigation systems; wireless and wired network protocols; power management systems; wireless modulation and demodulation systems; user interfaces for mobile devices; visual, auditory, tactile and vibratory interfaces for mobile devices; online services for mobile devices; automobile audio and video media players; automobile data navigation systems; navigation databases; satellite audio and video systems; transactional and e-commerce systems for automobiles; transmission systems for geographic information; automobiles wireless communication systems; automobile power systems; entertainment systems; wireless networks for airplanes; satellite data</p>		

	<p>receivers for airplanes; media distribution systems; disk drives; solid-state memory devices; RAID arrays; photographic equipment; still and video cameras; motion capture software and hardware systems; lighting systems; hardware and software for capturing light from a scene and reconstructing 2-dimensional information and images; hardware and software for capturing light from a scene and reconstructing 3-dimensional information and images; hardware and software for capturing light from a scene and reconstructing motion information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing 2-dimensional information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing 3-dimensional information and images; hardware and software for capturing non-visible light radiation from a scene and reconstructing motion information and images; 3D zoetropes</p> <p>Class 025. First use: Clothing, namely, T-shirts, jackets, sweatshirts, caps and hats</p> <p>Class 028. First use: Games and toys; toy vehicles controlled by a wireless radio remote control; toy robots; electronic toys, electronically operated toy vehicles and electronic games; battery operated toys, battery operated action toys; action figures and plush toys; networked online toys and toys controlled by a wireless network, toy robots, vehicles, action figures and plush toys; avatars</p> <p>Class 036. First use: Venture capital services; providing incubation services to companies, namely providing the following facilities, resources and services: financing, office space, facilities management; office equipment, online services, e-commerce services, credit guarantees, payroll, health benefits, insurance, legal services, accounting services, venture capital investment advisory services; investment management; financial due diligence, engineering equipment, engineering resources</p> <p>Class 038. First use: Television broadcasting; streaming of audio and video material over wired and wireless data networks and wireless telephone networks; and providing networking services for establishing multiple-user access to wide-area networks and local-area networks; provision of internet portals; Internet-based navigation services; video game hosting services; avatar services; web site design and customization services; provision of social network services; web site and media hosting services</p> <p>Class 041. First use: Multimedia entertainment software production services; script writing services; video production services; music production services; providing entertainment services in the nature of ongoing television and radio programs; wireless ISM-band networks, wireless wide-area networks, cellular networks, and global communication networks; production and distribution of motion pictures; distribution of audio and television programming to cable television systems, satellite systems, local wireless networks, cellular data networks, telephone networks, and wide area wireless networks; distribution of audio and television programs for others; providing educational services via global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; providing information via global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; production services for digital video discs for others; production services for audio, motion pictures, three-dimensional graphics, animation and motion capture, namely, capturing motion with digital images, animation; distributing audio, motion pictures, three-dimensional graphics, animation and motion capture, namely, capturing motion with digital images, animation over global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; distribution of entertainment media, motion pictures,</p>
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	<p>television programs, and live concerts; providing services in the fields of education, entertainment, digital video and audio production and broadcasting, motion picture production and distribution, three-dimensional graphics production, animation production, and motion capture; and rental of entertainment media, rental of motion pictures, television programs and live concerts; hosting and distribution of video games and computer applications through global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; providing storage services through global computer networks, local wireless networks, data networks, telephone networks and wide area wireless networks; providing audio and video teleconferencing services through global computer networks, local wireless networks, data networks, telephone networks and wide area wireless networks; providing e-commerce and transactional services for consumers and businesses over global computer networks, local wireless networks, data networks, wired and wireless telephone networks and wide area wireless networks; e-commerce and transaction services; wireless toll collection; automotive entertainment services; travel services; automotive wireless communication services; e-commerce and transaction services, including entertainment services, travel services; airplane wireless communication services; social networking services; online services; credit guarantee services, human resource services, payroll services, health benefits services, insurance services, legal services, accounting services, venture capital investment advisory services; investment management; financial due diligence; 3D printing and rapid prototyping services; software development services; hardware development services; facilities management services; art production services; casting services; Internet hosting services; website hosting services; email hosting services; chat hosting services; video and audio hosting services; video game hosting services; social network hosting services; e-commerce and transaction hosting services; search services; data collection services; database services; data presentation services; web site design services; digital video recording services</p> <p>Class 042. First use:</p> <p>Consulting services in the fields of computer hardware, software, wireless technology, wireless devices, wireless networks, mobile devices, telephony, teleconferencing, video games, motion picture production, motion capture, special effects, e-commerce technology, online transaction systems, user interface design, compression technology, encryption technology, user interface design, optical system design, photography, wireless power transmission, power management, network technology, server center deployment and global computer networks</p>
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	REARDEN STEEL, REARDEN STEEL STUDIOS, REARDEN STEEL ENTERTAINMENT, REARDEN STEEL PRODUCTIONS, REARDEN PRODUCTIONS, REARDEN ENTERTAINMENT, REARDEN PROPERTIES, REARDEN LABS		
Goods/Services	Business services, including providing business management, startup company incubation, advisory, strategy, planning, marketing, and financing consulting services.		

Related Proceedings	Opposition to Ser. No. 7711653
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Attachments	77194957#TMSN.jpeg ( 1 page )( bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Rachel L. Chanin/
Name	Rachel L. Chanin
Date	12/17/2007



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 77116343  
for the mark REARDEN METAL  
Published in the Official Gazette on August 21, 2007

Rearden LLC,	)	
	)	
Opposer,	)	
	)	Opposition No. _____
vs.	)	
	)	
Rearden Metal LLC,	)	
	)	
Applicant.	)	Docket No. _____
_____	)	

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Rearden LLC, a California limited liability company with its place of business at 355 Bryant Street, Suite 110, San Francisco, California 94107 (“Opposer”), opposes registration of the above-identified application by Rearden Metal LLC, a Delaware limited liability company with its place of business at 134 Marvin Avenue, Los Altos, California 94022 (“Applicant”).

Opposer believes that it will be damaged by the registration of the REARDEN METAL mark shown in U.S. Trademark Application Serial No. 77/116343 by the Applicant, and hereby opposes same. The grounds for opposition are as follows:

1. Applicant filed an intent-to-use application for the REARDEN METAL mark

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on February 26, 2007.

2. On information and belief, Applicant has not used the REARDEN METAL mark to date.
3. Applicant seeks registration of the mark REARDEN METAL for “[b]usiness consulting, advisory, strategy and planning services; business marketing services; marketing consulting” in International Class 035.
4. Opposer has both common law and registered rights in the REARDEN mark and other marks incorporating the REARDEN mark, and has developed valuable goodwill with respect to the REARDEN mark and other marks incorporating the REARDEN mark.
5. Opposer has used the word REARDEN alone and in combination with other words as trademarks continuously since 1999 in connection with its businesses, in a variety of industries, including providing business management, startup company incubation, advisory, strategy, planning, marketing, and financing consulting services (“Business Services”), and has acquired rights in the REARDEN mark and other marks incorporating the REARDEN mark through such use, long before the filing of Applicant’s intent-to-use application.
6. Opposer has offered its Business Services under the REARDEN, REARDEN COMPANIES, REARDEN STEEL, REARDEN STEEL STUDIOS, REARDEN STEEL ENTERTAINMENT, REARDEN STEEL PRODUCTIONS, REARDEN STUDIOS, REARDEN PRODUCTIONS, REARDEN ENTERTAINMENT, REARDEN PROPERTIES, and REARDEN LABS marks continuously since 1999.
7. Opposer is also the owner of subsisting U.S. trademarks REARDEN STUDIOS (with design), Registration No. 3,011,729, REARDEN STUDIOS, Registration No.

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3,011,730 (with design), and REARDEN STUDIOS (typed drawing), Registration No. 3,011,731.

8. Applicant's filing date of February 26, 2007 is subsequent to Opposer's date of first use of marks containing the term REARDEN.

9. Applicant's mark so nearly resembles the Opposer's mark as to cause a likelihood of confusion or deception of the public. The marks are substantially similar in appearance, both marks using the term REARDEN. The marks are used for substantially similar services, as both are used in connection with Business Services. The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing are such that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source.

10. Any such confusion or deception would inevitably result in damage to the Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its services marketed under its mark.

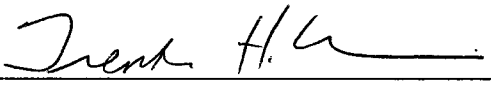
11. Opposer believes that it would be damaged by Applicant's registration of the REARDEN METAL mark.

WHEREFORE, Opposer requests that this opposition be sustained and that U.S. Trademark Application Serial No. 77/116343 be denied and refused.

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**You are hereby authorized** to deduct the \$300 fee for filing this Opposition, and any additional fees necessary to process this Notice, from Deposit Account No. 50-4047 in the name of Bingham McCutchen LLP.

Dated: December 19, 2007



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